THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17044 of 2006

Dated:23.08.2006

Between:

G.Suryanarayana Reddy.

…Petitioners

and

The Joint Collector-II, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17044 of 2006

ORDER:

The petitioner claims to be the owner and possessor of lands in Survey Nos.398 (Acs.8.30 guntas), 399 (Acs.2.05 guntas), 409 (Ac.1.22 guntas), 410 (Acs.2.08 guntas), 411/1 (Acs.3.07 guntas), 411/2 (Ac.0.09 guntas), 470 (Acs.15.30 guntas) and 579 (Acs.1.17 guntas) situated at Malkajgiri Village and Mandal, Ranga Reddy District. The petitioner allegedly purchased the said lands from Smt.Tajunnisa Begum and her legal heirs, who are allegedly the inamdars of the land. Pursuant to the agreement of sale dated 04.03.1968, the petitioner was statedly in possession of the land, and therefore, he made an application in Form No.I under the provisions of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act'), before the Inams Tribunal-cum-Revenue Divisional Officer, Chevella Division (second respondent herein). By an order, dated 29.10.2003, the second respondent rejected the claim of the petitioner for issuance of Occupancy Rights Certificate (ORC). Therefore, the petitioner preferred an appeal under Section 24 of the Act before the first respondent, who also rejected the claim of the petitioner by order dated 25.02.2006, on the ground that the subject land is a wakf land. This is assailed in the Writ Petition.

Learned Counsel for the petitioner vehemently contends that in

the absence of any proof that the land in question is a wakf land, the first respondent cannot surmise based on the revenue entries that it is a wakf land. Secondly, he submits that even if the land is wakf land, ORC cannot be issued to the wakf, unless it is shown that the Institution was enjoying the occupation/possession. **Per contra**, the learned Assistant Government Pleader for Revenue (General) placed strong reliance on Section 4(1) of the Act and contends that when once the land is registered as wakf land, issuance of ORC is prohibited. As the petitioner has not placed any material with regard to the nature of the land, this Court directed the learned Assistant Government Pleader to produce the file. The file has been produced for perusal of this Court and a copy of A.P.Gazette No.6-A, dated 09.02.1989, is also placed before this Court in support of the submission that the land in various survey numbers claimed by the petitioner is a wakf land.

There is no dispute that when once the land is surveyed under Section 4(3) of the Wakf Act, 1954 (for short 'the Wakf Act'), and published under Section 5(2) of the Wakf Act, notifying the land as a wakf property, the same is conclusive, unless such declaration is set aside by the competent Court or Tribunal. The notification produced by the learned Assistant Government Pleader would clinchingly show that the land in various survey numbers, which the petitioner purchased under agreement of sale, was notified as wakf property. Therefore, the question is whether a person can be granted ORC even where the land is notified as a wakf land after the date of vesting for the purpose of issuing ORC? Section 4(1) of the Act with its two provisos as introduced by the A.P.Amendment Act No.19 of 1994 with effect from 26.12.1995 reads as under.

4. Registration of Inamdars as occupants:-

(1) Every inamdar shall, with effect from the date of vesting, be entitled to be registered as an occupant of all inam lands other than-

(a) lands set apart for the village community, grazing lands, waste lands, forest lands, mines and quarries, tanks, tank-beds and irrigation works, streams and rivers;

(b) lands in respect of which any person is entitled to be registered under Sections 5, 6, 7 and 8 of the Act;

(c) lands upon which have been erected buildings owned by any person other than the inamdar;

Which immediately before the date of vesting, were under his personal cultivation and which, together with any lands he separately owns and cultivates personally are equal to four and a half times the 'family holding'.

> Provided that where inams are held by or for the benefit of charitable and religious institutions no person shall be entitled to be registered as an occupant under Sections 5, 6, 7 and 8 and the institution alone shall be entitled to be registered as an occupant of all inam lands other than those specified in clauses (a) and (c) above without restriction of extent to four and half times the family holding and without the condition of personal cultivation;
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> Provided further that where any person other than the concerned charitable or religious institution has been registered as an occupant under Sections 5, 6, 7 and 8 after the commencement of the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Act, 1985 such registration shall and shall be deemed always to have been *null* and *void* and no effect shall be given to such registration.

A plain reading of the above provisions would show that even when a Charitable and Religious Institution is not in occupation and it is shown that such Institution is entitled to be registered as occupant, no other person can be registered as occupant of such inam land. The second proviso further declares that any ORC in respect of the land held by the Charitable Institution or Religious Institution shall be deemed always to have been null and void and no effect shall be given to such registration. Therefore, even if the allegation that the petitioner has been in possession of the land as on the date of vesting, he cannot be granted ORC. Precisely, for this reason, the first respondent rejected the appeal and the same cannot be faulted on the ground of illegality.

The Writ Petition is devoid of any merit and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

23.08.2006
vs